

CIVIL SERVICE COMMISSION MINUTES

October 3, 2001

A Regular Meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Mary Gwen Brummitt
Roy Dixon
Barry I. Newman

Absent were:

Gordon Austin
Sigrid Pate

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
October 3, 2001

2:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
2, 3, 4, 6, 7		5	

COMMENTS Motion by Dixon to approve all items not held for discussion; seconded by Newman. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Brummitt: Michael McGlinn, Esq., on behalf of **Margaret Katungi**, Protective Services Worker II, appealing an Order of Demotion and Charges by the Health and Human Services Agency (HHSa).

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of September 5, 2001.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Pate: Everett Bobbitt, Esq. on behalf of **Amy Henson**, Deputy Sheriff-Detentions, appealing an Order of Removal of Corporal Premium Pay, Pay Step Reduction and Charges from the Sheriff's Department.

John Madigan, Esq., from the Sheriff's Department, addressed the Commission regarding this appeal (as well as No. 3 below). He requested that the Commission deny the appeal based on the fact that the appointing authority was not in receipt of the request for an appeal and answer from appellant as required by Civil Service Rule 7.5. The Commission agreed with the fact that all parties must follow the rules as outlined.

Larry Cook, Executive Officer, recommended that the Commission confirm the assignment, but that he would follow-up with counsel for appellant, advising him that in all cases the appointing authority must be served with the answer/appeal (either personally or by mail) by the employee.

Motion by Dixon to accept Mr. Cook's recommendation. Seconded by Brummitt. Carried. Commissioner Pate confirmed.

Newman - No.

3. Commissioner Dixon: **Gary Talbot**, Deputy Sheriff-Detentions, appealing an Order of Suspension and Charges from the Sheriff's Department.

See No. 2 above. Commissioner Dixon confirmed.

DISCIPLINES

Findings

4. Commissioner Brummitt: Michael McGlinn, Esq., on behalf of **Margaret Katungi**, Protective Services Worker II, appealing an Order of Demotion and Charges by the HHSA.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - incompetency as a supervisor; Cause II - inefficiency; Cause III - insubordination; Cause IV - dishonesty; Cause V - discourteous treatment of other employees; Cause VI - conduct unbecoming an employee of the County; Cause VII - failure of good behavior; Cause VIII - acts incompatible with and inimical to the public service. Employee has been employed by the Health and Human Services Agency (HHSA) for approximately 20 years. Employee was demoted from Protective Services Supervisor (PSS) to Protective Services Worker II (PSW II) on May 31 2001. Prior performance evaluations had overall ratings of standard or above.

In December 1998, Employee was promoted to the classification of PSS of the Tayari Adoptions Unit. Prior to Employee's arrival at Tayari, the supervisory position had been vacant for approximately six months. Employee passed a one-year probationary period as a PSS. On January 14, 2000, shortly after passing probation, Employee approved a critical incident report authored by one of the PSWs in her unit, which became the subject of much dissatisfaction by the Program Manager, an employee of 29 years' experience in Children's Services. A disciplinary investigation ensued. Employee presented testimony at the hearing that the Program Manager's dissatisfaction with her began around the time of the above dispute.

At the Commission hearing, the Tayari PSWs consistently testified that the unit was overworked and understaffed. They also testified that this condition grew progressively worse during Employee's supervision as a result of the lack of replacements for lost PSWs. Testimony indicated that Employee was making efforts to recruit PSWs and that the Program Manager had indicated that she would consider qualified candidates. However, at the hearing, the Program Manager admitted that she intentionally blocked assignments to Tayari because she believed that Employee was not competent to supervise or train new PSWs. The hearing officer thought it plausible that the perception of deficiencies in Employee's performance was attributable, at least in part, to the diminishing PSW staff available to handle the caseload.

By a preponderance of evidence, the Agency proved a majority of the Charges in Cause I, incompetency, and Cause II, inefficiency. The demotion is Employee's second discipline based on similar causes in her term as supervisor at Tayari. It is enough to sustain the selected level of discipline.

However, the preponderance of evidence supporting the above-referenced charges is complicated by a substantial element of doubt. That is, there was significant testimony as to the adverse working conditions at Tayari as well as credible testimony attesting to Employee's positive attributes as a supervisor. Additionally, the Program Manager's decision to block new assignments to Tayari may not have been adequately offset by a reduction of caseload. The conclusions herein are not intended to foreclose future supervisorial opportunities for Employee.

Accordingly, Employee is guilty of Cause I, incompetency, and Cause II, inefficiency. Employee is not guilty of Cause III, insubordination, Cause IV, dishonesty; Cause V, discourteous treatment of other employees; Cause VI, conduct unbecoming an employee of the County; Cause VII, failure of good behavior; and Cause VIII, acts incompatible with or inimical to the public service.

It is therefore recommended that the Order of Demotion and Charges be affirmed; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

**Motion by Brummitt to approve Findings and Recommendations.
Seconded by Newman. Carried.**

Dixon - No. (Stating that he strongly felt that retaliation was a key factor.)

DISCRIMINATION

Complaints

5. **Constance Locy**, former Sheriff's Records & ID Clerk I, alleging disability and reverse racial discrimination by the Sheriff's Department.

RECOMMENDATIONS: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Brummitt assigned.

SELECTION PROCESS

Complaints

6. **Tom Basinski**, District Attorney Investigator III, appealing his non-selection for promotion to District Attorney Investigator IV by the Office of the District Attorney. (Continued from the meeting of September 5, 2001)

RECOMMENDATION: Deny Request.

Mr. Basinski addressed the Commission regarding his non-promotion to the classification of District Attorney Investigator IV. He stated that he felt the selection process was unfair and not based on merit. He asked the Commission to grant him a hearing on this matter.

Ken Weaver, on behalf of the DA, explained that the promotional process for DA Investigator IV is highly competitive. He stated that the investigation by OIA revealed that the selection process was within the proper guidelines established by DHR. He stated that Mr. Basinski's appeal is without merit.

Kelley Bacon, on behalf of the DHR, explained that all qualified candidates were rated at 100. Then the DA's office began its interview process and selection based on those interviews and past performance by each candidate. She stated that to her knowledge, the selection process was fair.

Motion by Dixon to accept staff recommendation. Seconded by Newman. Carried.

7. Joseph Haddad, on behalf of **Suha Haddad**, appealing the Department of Human Resources' decision to not place her on the employment list for the classification of Intermediate Account Clerk.

RECOMMENDATION: Deny Request.

Mr. Joseph Haddad, on behalf of appellant, requested that the Commission consider the appeal of his wife because she feels that the County should put emphasis on the supplemental test since the first half deals with general clerical work, and the second half pertains to accounting.

Kelley Bacon, representing the DHR, explained that in order to become a candidate for the classification of Intermediate Account Clerk, part one of the test had to be taken successfully, as well as part two. She stated that the Job Announcement for this classification clearly explains that a candidate must take a general clerical test battery to cover a combination of clerical skills for all clerical positions, as well as a supplemental test to measure general knowledge in clerical accounting. She explained that the Department has clarified this requirement on all future job announcements by inserting the words "and pass" after the word "take" (pertaining to the exam), on future job announcements.

Ms. Bacon also stated that a candidate may retake the IAC test, without prejudice.

Motion by Newman to accept staff recommendation. Seconded by Dixon. Carried.

Findings

8. **Phillip L. Fuhr**, appeal of removal of his name by the Department of Human Resources (DHR) from the employment list for Deputy Sheriff Cadet.

9. **Janet Terlouw**, appeal of removal of her name by the DHR from the employment list for Deputy Sheriff Cadet.

10. **Melanie McRae**, appeal of removal of her name by the DHR from the employment list for Corrections Deputy Sheriff.

RECOMMENDATION: Ratify item Nos. 8 - 10. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item Nos. 8-10 ratified.

OTHER MATTERS

Extension of Temporary Appointments

11. Auditor & Controller

1 Senior Accountant (Karen Stewart)

12. Health and Human Services Agency

A. 1 Administrative Trainee (Phyllis Bech)

B. 1 Patient Services Specialist IV (Julia Palmer)

13. Agriculture, Weights & Measures

2 Insect Detection Specialist I's (Robert Montavon, Elizabeth Cavanagh)

RECOMMENDATION: Ratify Item Nos. 11 - 13.

Item Nos. 11-13 ratified.

14. Public Input.

ADJOURNMENT: 4:00 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE NOVEMBER 7, 2001.